Pomeroy, Equity Jurisprudence, 2nd ed., § 264, n. 1. Nor is the New York decision supportable upon the ground that a corporate interest was involved. While the abstract right to be a corporation is a property right, *West River Bridge Co.* v. *Dix* (1848) 6 How. 507, obviously this right was not and could not be impaired by the defendants' violence. The right which the court denominates the "right to exist" was doubtless the right to effective existence, that is, to deal with its members and others without interference and standing to enjoin such interference should have been refused because as INGRAHAM, J., points out, the plaintiff showed no threatened injury to corporate property. This was precisely the ground upon which the New Jersey court denied that there had been any interference with the plaintiffs' business relations on which to base their claim to an injunction and laid down the well recognized rule that no right arises in such a case in the absence of actual or threatened money damage. Bigelow on Torts, 7th ed., §§ 233, 255; Pollock on Torts, 6th Ed., 529 ff.

ADMISSION OF EVIDENCE OBTAINED UNDER AN ILLEGAL SEARCH WARRANT.—In nearly all the state constitutions there are provisions (1) that no person shall be compelled to furnish evidence, or be a witness, against himself in a criminal case, and (2) that the people shall be secure against unreasonable searches and seizures. Is it a violation of the first provision to admit in evidence in a criminal action articles tending to connect the defendant with the crime, taken from him under a search warrant? And if the search warrant was illegal, so that the search and seizure under it was wrongful and unreasonable, should the evidence so obtained be excluded? These questions were recently presented to the Supreme Court of Iowa and to the Court of Appeals of New York, and in answering them the courts reached contrary results. The Iowa court held that to admit such evidence would be to violate both constitutional guaranties, while the Court of Appeals decided that neither constitutional provision could be invoked to exclude the evidence. *State* v. *Sheridan* (Iowa 1903) 96 N. W. 730; *People* v. *Adams* (1903) 30 N. Y. Law Journal 555. It has been objected many times that to admit in evidence articles taken under a search warrant is to compel the defendant to furnish evidence against himself. The Iowa court, however, is the first to sustain the objection. The authority relied upon by the Iowa case, and invariably relied upon by defendants raising this objection, was *Boyd* v. *U. S.* (1885) 116 U. S. 616. Other courts have repeatedly held that case inapplicable, and pointed out that it merely passed upon the validity of an order of the United States Circuit Court, requiring a defendant to produce books and papers, to be used in evidence against him. *Gindrat* v. *People* (1891) 138 Ill. 103; *Williams* v. *State* (1897) 100 Ga. 511; *State* v. *Atkinson* (1893) 40 S. C. 363. So long as the defendant is not sworn as a witness, or required to produce his books, papers or

other articles, it seems difficult to say that he is compelled to be a witness or furnish evidence against himself. The effect of the constitutional guaranty against unreasonable searches and seizures has been frequently considered by the courts. The victim of an unlawful search and seizure may, of course, recover damages from the party instituting the search, or from an officer who by exceeding his authority becomes a trespasser. *Commonwealth* v. *Dana* (Mass. 1841) 2 Met. 329; *State* v. *Atkinson*, supra. But, with the exception of the Vermont case of *State* v. *Slamon* (1901) 73 Vt. 212, in which no authorities are cited, and which is squarely contra to other Vermont decisions, *State* v. *Mathers* (1891) 64 Vt. 101, it has never before been held, as in the Iowa case, that in a criminal action evidence unlawfully obtained was for that reason inadmissible. The question first arose in *Commonwealth* v. *Dana*, supra. In deciding it the Massachusetts court said; "When papers are introduced in evidence the court can take no notice how they were obtained, whether lawfully or unlawfully." Subsequent cases have followed and expressly approved this decision until it is well settled in many states that evidence will not be excluded on the showing of the defendant that it was illegally obtained. *Gindrat* v. *People*, supra; *Williams* v. *State*, supra; *Commonwealth* v. *Tibbetts* (1893) 157 Mass. 519; *Bacon* v. *U. S.* (1897) 97 Fed. 35. The text writers adopt this rule without question. 1 Greenleaf on Evidence, § 254, a; 1 Taylor on Evidence, § 922; 1 Bishop, Criminal Procedure, § 246; Chase's Stephen's Digest of Evidence, Art. 2, note 1. The uniform practice of admitting in evidence facts developed by a confession, although the confession itself, because induced by hope or fear, would be inadmissible, would indicate that in passing upon the competency of evidence the manner in which it was obtained is not considered. The fact, too, that evidence procured by "eavesdropping" on a prisoner, or by inducing him to answer "decoy" letters, is always admitted shows that courts are not oversensitive as to the manner in which evidence is procured against one accused of crime. It is difficult to believe that the constitutional provision was intended to afford to an accused person the collateral protection afforded by the Iowa decision. Its object, it would seem, was not to furnish a rule by which evidence could be excluded, but to provide against any attempt by legislation to make lawful any unreasonable search or seizure. *Williams* v. *State*, supra.

PART PERFORMANCE AS A BASIS FOR EQUITY JURISDICTION.—The fact of part performance often determines the propriety of granting specific performance of a contract, but is it in itself sufficient ground for equity taking jurisdiction to grant such relief? A recent case gave it this effect. *Raymond Syndicate* v. *Brown* (1903) 124 Fed. 80. The complainant paid $20,000 for a stock of general merchandise. The defendant after delivering about two-thirds refused